

2015 APAAC ANNUAL PROSECUTOR CONFERENCE

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Stopping Jeffrey Dahmer Part Two

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ARS § 13-2910

- Cruel Mistreatment = intentionally or knowingly = torture or otherwise inflict unnecessary serious physical injury or to kill an animal in a way which causes protracted suffering to the animal.
- Cruel Neglect = intentionally or knowingly fails to provide an animal w/ necessary food, water or shelter
- What does necessary or unnecessary mean?

PHYSICAL INJURY

- ARS § 13-105:
- Impairment of physical condition
- Serious Physical Injury: physical injury that creates a reasonable risk of death, or that causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb
- Hot car cases – even non-death cases may involve long term health consequences
- Other forms of exposure

CHARGING FELONY CRUEL MISTREATMENT



CRUEL MISTREATMENT



Hitting, punching,
tormenting, kicking,
burning or scalding,
gunshot or pneumatic
weapon injury,
poisoning,
drowning or suffocation,
Use of deadly
weapons/dangerous
instruments

Mistreatment Questions

- If an injury, is it serious? Obviously, if the victim died.
- How and who inflicted it?
- Was it necessary? Is this motive?
- Allegation of dangerous nature
- Like any other violent crime







Neglect Questions

- If lack of food, water or shelter, did serious physical injury or death result?
- What evidence is needed to answer this question?
- How did this happen? Did someone (who?) just forget?
- Who, in a household, is responsible?
- Hot car cases
- Other forms of exposure
- <http://www.14news.com/story/24389710/deputies-rescue-dubois-co-dog>

Neglect Questions

- Disease or lack of food and water or proper shelter?
- If disease, was there veterinarian treatment?
- If no treatment, was there protracted suffering?
- Does it matter why there was no treatment?
- What about common parasites?

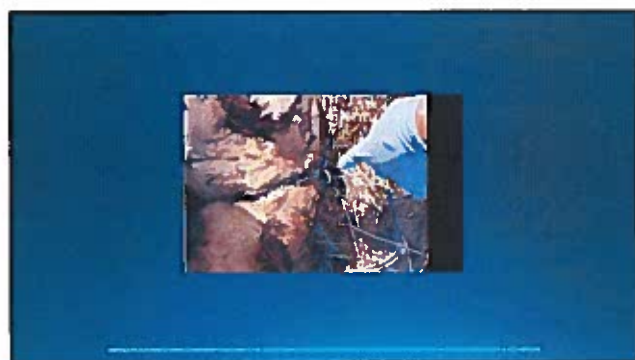
NECESSARY WITNESSES

- Owner/custodian
- Family members
- Neighbors
- Veterinarians
- Breed specialists

VETERINARIANS

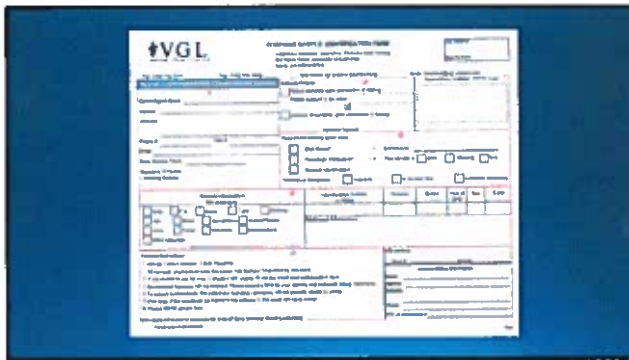
- Diagnosis – existing physical consequences of custodian's conduct
- Pain
- Treatment options
- Prognosis
- Necropsy – cause and manner of death





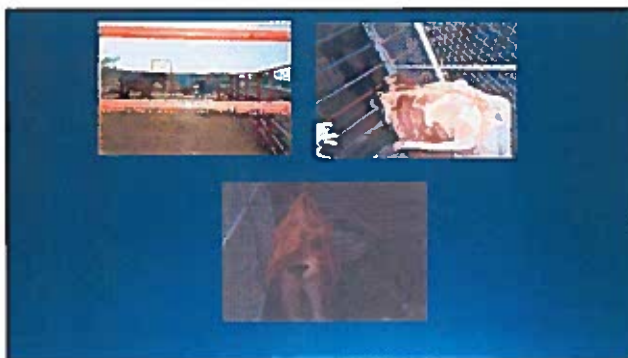


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Title 3 - Livestock

- ARS 3-1307 – class 5 felony to kill livestock belonging to another
- ARS 3-1311 – ok to kill dogs who have attacked or killed livestock
- Livestock is defined as cattle, equine, sheep, goats and swine, equine include horses, mules, burros and asses. ARS 3-1301
- ARS 3-1721 – Livestock officers may seize equine who are victims of cruelty/neglect, provisions for forfeiture



WHO IS YOUR VICTIM?

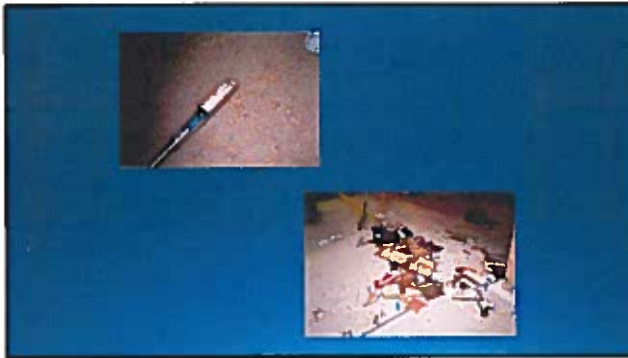
- Name the animal in your indictment (or identify by kennel card #)
- Owner
- Defendant's family
- Defendant's significant other in DV cases
- Who get's victims' rights notices?
- Meeting them

Caring for the victim

- Removal of the victim from the perpetrator – no problem if not the owner
- If owner, search warrant, plain view exception, emergency care needed
- Under recent case law from Oregon, may now need a search warrant to conduct the sexual assault exam and collection of forensic samples, including necropsies
- Use local ordinances or A.R.S. § 13-4281 to seek a civil forfeiture of the victim

Domestic Violence

- ARS 13-3601 – Animal Cruelty/Neglect which results in Serious Physical Injury is now included as a crime of domestic violence
- ARS 13-3602 E (7) permits a Petitioner seeking a DV Order of Protection to request sole custody of an animal and an order to keep the Respondent from having any contact with the animal; committing any acts forbidden under ARS 13-2920 and/or disposing of the animal in any way



SAFE HAVENS

- Against Abuse, Inc- La Casa de Paz in Casa Grande
- A New Leaf – Mesa
- Time Out DV Shelter – Payson
- Arizona Humane Society Project Safehouse – Phoenix
- Safe-T Program – Page Regional DV Services
- MCAO M.A.S.H Unit TLC Program
- Humane Society of Southern Az. Safe Haven Animal Foster Care Program – Tucson
- The Last Resort, Inc - Vail

JUVENILE OFFENDERS

- "street" dog fighting
- Sexual assaults
- 30% of those who commit intentional animal cruelty are juveniles
- Witnessing acts of animal cruelty is a major predictor of future violent behavior against people and animals
- Committing acts of animal cruelty and firestarting = 83% will commit future acts of violence
- What else is going on in that household
- Therapeutic intervention is most helpful here

Charra was sprayed with WD-40 and set on fire by a juvenile who shortly thereafter molested a 13 year old girl. She had 2nd and 3rd degree burns.







CHARGING HOARDING/PUPPY MILLS

- All forms of neglect are present; difference is in the "motive"
- 3 kinds of hoarders: 1) "overwhelmed caregiver", 2) "rescue" hoarder, and 3) "exploitive hoarder"
- All hoarders would like be seen as the first type. Most are not. Those who are will more readily respond to help and agree to give up animals and spay/neuter them.
- The other 2 will not. They are blind to the conditions and the suffering. They require prosecution and supervision or they will just keep doing it.

Charging Hording/Puppy Mills

- The veterinary condition of each animal
- Failure to obtain veterinary care
- Possible fraud/scheme for misrepresenting condition/pedigree of the animal sold







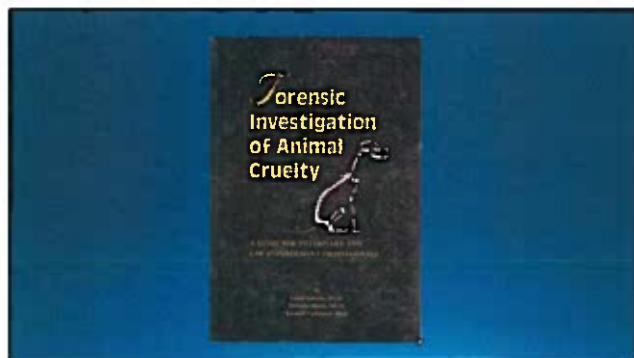






PUPPY MILLS

- Typically smaller breeds of dogs which are caged up all the time with no grooming or veterinary care. Cages are rarely cleaned and are usually stacked one upon another to maximize space and numbers.
- The conditions are equivalent or even worse than those in boarding cages.
- Primary motive is profit.
- Buyers are never permitted to see the premises
- Kennel licenses can be an issue
- Websites; Craig's List; social media





Animal Fighting Statutes (ARS)

ARS 13-2901.01 – Animal Fighting
 ARS 13-2910.02 – Presence at an animal fight,
 ARS 13-1004 – Facilitation, classification
 ARS 13-1802 – Theft, classification
 ARS 32-2239 – Duty of veterinarian to report suspected
 participant of animal fighting or animal abuse, immunity



ARS 13-2910.01 Animal fighting; classification

- A.) A person commits animal fighting by knowingly:
1. Owning, possessing, keeping or training any animal knowing or having reason to know that the animal will engage in an exhibition of fighting with another animal.
 2. For amusement or gain, causing any animal to fight with another animal, or causing any animal to injure each other.
 3. Permitting any act in violation of paragraph 1 or 2 to be done on any premises under his charge or control.
- B.) Animal fighting is a **class 5 felony**.

ARS 13-2910.02 Presence at an animal fight

Any person who is knowingly present at any place or building where preparations are being made for an exhibition of the fighting of animals, or is present at such exhibition, is guilty of a **class 6 felony**.





COCKFIGHTING

• ARS 13-2910.03 and .04



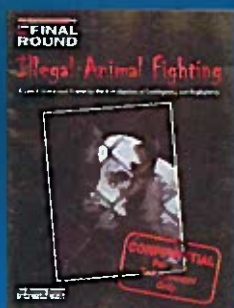


Evidence Collection

- Drugs (human and animal)
 - Vitamins, painkillers, speed, hormones and steroids
- Veterinary supplies
 - Kits, syringes, sutures and needles, forceps, scalpels, and wound dressings
- Weapons
- Bills of sale, pedigrees and breeding records
- Websites and social media

Importation of disease

- ARS 13-2912 Unlawful Introduction of Disease or Parasite
- Which constitutes a threat to livestock or poultry industries
- Class 5 felony
- Avian Flu and Newcastle's Disease



Animal Fighting Resources

- | | |
|----------------------------------|--------------------------|
| • MARK KUMPF | • JOHN GOODWIN |
| • National Animal Control Assoc. | • HSUS |
| • 937-264-5466 (Dayton, OH) | • District of Columbia |
| • SGT. DAVID HUNT | • 301-258-3156 |
| • Franklin Co. S.O. | • ERIC SAKACH |
| • Columbus, Ohio | • HSUS |
| • 614-462-3360 | • Sacramento, CA |
| | • 916-344-1710, ext. 121 |

ARS 13-1411 - Bestiality

- Knowingly engaging in oral sexual contact, sexual contact or sexual intercourse with an animal or causing another person to engage in such conduct
- Exemptions for accepted veterinary and breeding practices

ARS 13-1411 - Bestiality

- Animal means a non-human mammal, bird, reptile or amphibian
- Class 6 felony unless children are involved in which case it is a Class 3
- Sex offender registration
- Enhanced sentencing as a DCAC or lifetime probation

Has a sexual assault occurred?

- Injuries- severe to lethal, some lack abnormal findings
- Injuries can involve:
 - Anus, Perineal Area, Rectum, Colon
 - Vulva, Vagina, Uterus, Scrotum, Penis
- Any injury to anorectal region or genitalia by definition qualifies as sexual abuse

Evidence Collection - Veterinary

- Wound analysis – rectal/vaginal trauma, restraint scars or marks,
- Other evidence of physical abuse
- Collection of samples
- Injury photography and recording
- Conversation with "owner"
- Reporting to law enforcement
- Necropsy

A.R.S. § 13-1403

- Public Sexual Indecency
- "bestiality" in presence of others, reckless about whether the others might be offended
- Under 15 reckless about whether such a minor might be present = class 5 felony

a.r.s. § 13-3501 & 13-3502

- Definition of Obscenity
- Possession of Obscene Items
- Class 5 felony

EVIDENCE

- Rules 403 and 404: collections and websites
- Relevant to sexual interest in animals or a specific species
- Relevant to how to use certain animals
- All relevant to assist in establishing identity of the abuser, or the purpose of other items recovered such as restraints or other injuries the victim may have sustained – scars from those restraints or the removal of tails
- File motion under 403 & 404 (b) for admissibility re: "intent, preparation, plan, knowledge, identity or absence of mistake or accident"
- www.chandleredwards.org

OTHER CONSIDERATIONS

- IF A CHILD INVOLVED UNDER 13-705: MANDATORY TIME AS A DANGEROUS CRIME AGAINST CHILDREN – PRESUMPTIVE TERM IS 5 YEARS; THE MINIMUM IS 2.5 AND THE MAXIMUM IS 7.5
- IF REDUCE THAT TO AN ATTEMPTED CRIME CAN SEEK UP TO LIFETIME PROBATION
- CONDITIONS: NO ANIMAL POSSESSION OR CUSTODY FOR AS LONG AS ON PROBATION
- RESTITUTION FOR VETERINARY, NECROPSY COSTS

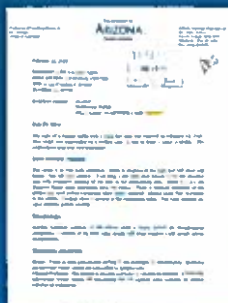


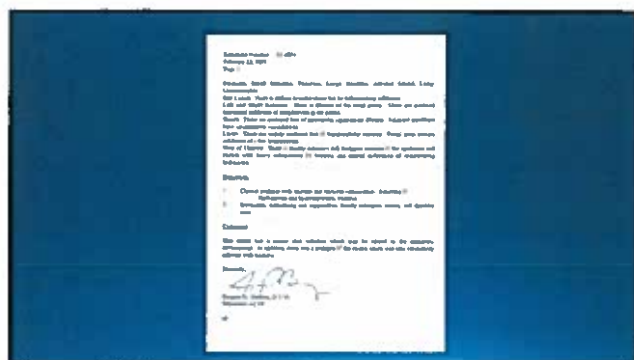
PRESERVE THE BODY FOR NECROPSY

Necropsy = animal autopsy, a post mortem exam.

If the animal is dead and you have reason to believe that mistreatment/neglect has occurred the cause of death must be determined, therefore the body must be necropsied.







defenses

- Consent (?)
- Mental Illness
- Competency
- Identity
- Juveniles just "kidding around"
- DV cases – recantations
- Computer forensics – accidental downloads
- Victim is my property
- It didn't happen – no injury or injuries are from something else

TRIAL CONSIDERATIONS

- SIMILAR TO CHILD ABUSE/HOMICIDE CASES WHERE YOUR VICTIM IS VOICELESS
- USUAL WITNESSES: EYEWITNESSES, "EAR" WITNESSES, LAW ENFORCEMENT, ANIMAL CARE/CONTROL OFFICERS, VETERINARIANS – TREATING AND EXPERT, ANIMAL BEHAVIORIST
- WEAPONS, RESTRAINTS, DIGITAL COLLECTIONS, WEBSITES ACCESSED
- "RAPE KITS"
- DNA ANALYSIS

jury selection

- QUESTIONS RE: ANIMAL OWNERSHIP AND CARE:
- HOW MANY, WHAT KINDS, WHERE THE DOES THE PET SPEND MOST OF ITS TIME, GIVEN A PET AWAY, TAKE IT FOR WALKS OR TO THE DOG PARK, BREEDER, RESCUE, BUY THEM CHRISTMAS PRESENTS?
- EVER CALLED/INTERACTED WITH ANIMAL CARE & CONTROL
- WHOSE YOUR VETERINARIAN? IS THE ANIMAL'S CARE UP TO THE KIDS?
- NO SHRINKS OR SOCIAL WORKERS

SENTENCING CONSIDERATIONS

- A.R.S. § 13-1411 provides: Court may order a psych assessment and counseling at deft's expense, reimbursement to a political subdivision – A.R.S. § 11-1022 – for reasonable costs incurred for care/maintenance for an animal taken to a shelter
- Restitution for others?
- Jail, prison or probation
- Prohibition on animal ownership/custody/care
- Court can designate as a misdemeanor
- Community service?

Title 12

- ARS § 12-1011 –

Liability of owner to political subdivision for Animal Rescue costs if owner has been convicted of a violation of ARS § 13-2910



INTERAGENCY OPERATIONS

- Enforcement Agents including Livestock Officers
- Local Animal Welfare Organizations particularly those who can transport/house large animals
- Veterinarians
- Arizona Game & Fish
- Federal Bureau of Investigation
- Arizona Veterinary Diagnostic Laboratory
- Rescue Organizations
- AWASA